

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

SKYLINE DESIGN, INC., an
Illinois Corporation,

Plaintiff,

v.

CARVART GLASS, INC., a New York
Corporation, and **RG GLASS CREATIONS,**
INC., a New York Corporation,

Defendants.

Case No. 07- 4314

Judge Ronald A. Guzman
Magistrate Susan E. Cox

INITIAL STATUS REPORT

NOW COMES the Plaintiff, Skyline Design, Inc. (“Plaintiff”), by and through its attorneys, Richard C. Perna and Tejal S. Desai of Fuchs & Roselli, Ltd., and Defendants, Carvart Glass, Inc. (“Carvart”) and RG Glass Creations, Inc. (“RG Glass”)(jointly as “Defendants”) by and through their attorneys, Wendy E. Miller and Gary J. Gershik of Cooper & Dunham LLP and Michael R. Turoff and Raechelle Delarmenti of Arnstein & Lehr LLP (Plaintiff and Defendants referred to jointly as “Parties”) and pursuant to the standing order of this Court, submit as and for their Initial Status Report as follows:

1. The attorneys of record:

For Plaintiff:

Richard C. Perna
Tejal S. Desai
Fuchs & Roselli, Ltd.
440 W. Randolph Street, Suite 500
Chicago, Illinois 60606

For Defendants:

Wendy E. Miller (Of Counsel)
Gary J. Gershik
Cooper & Dunham LLP
1185 Avenue of the Americas

New York, NY 10036

Michael R. Turoff (Local Counsel)
Raechelle Delarmenti
Arnstein & Lehr LLP
120 S. Riverside Plaza, Suite 1200
Chicago, Illinois 60606

2. The basis for federal jurisdiction:

This Court has jurisdiction under 28 USC 1331 as this cause of action alleges violation of federal statute. It is Plaintiff's position that this Court also has diversity jurisdiction under 28 USC 1332 as there is complete diversity among the parties and the amount in controversy exceeds \$75,000.00. It is Defendants' position that this Court lacks diversity jurisdiction because the amount in controversy does not exceed \$75,000.00.

Defendants deny that there is *in personam* jurisdiction, and that venue is proper in this District. On May 14, 2008, Defendants filed a motion to dismiss this action, pursuant to Rule 12(b)(2) and (3), F.R.Civ.P., for lack of personal jurisdiction and improper venue. In the alternative, Defendants have moved to dismiss Counts V and VII of the Complaint, under Rule 12(b)(6), F.R.Civ.P., for failure to state a claim upon which relief can be granted, and to transfer the remaining counts to the U.S. District Court for the Southern District of New York, where personal jurisdiction exists over the Defendants and where venue is proper, in accordance with pursuant to 28 U.S.C. §§ 1391(b), 1400(a) and 1404(a).

3. The nature of the claims asserted:

Plaintiff has brought a claim against Defendants under §§502, 504, and 505 of the United States Copyright Act for infringement on Plaintiff's copyright; a claim for unjust enrichment against Defendants; a claim under 815 ILCS 505/1 *et seq.* for violation of the Illinois Consumer Fraud and Deceptive Business Practices Act; a common law claim for unfair competition; a claim under 815 ILCS 510/1, *et seq.* for violation of the Illinois Deceptive Trade Practices Act.

In view of their motion to dismiss, Defendants have not filed any counterclaims at this time and the nature of any such counterclaims is yet to be determined.

4. The name of any party not yet served:

RG Glass Creations, Inc.

5. The principal legal issues at this time:

The principal legal issue presented by Plaintiff is whether the alleged use of Plaintiff's copyright amounts to a violation of the statutes cited in Plaintiff's complaint and whether any affirmative defenses that may be raised by Defendant defeat Plaintiff's claims.

Defendants have presented additional legal issues in their motion to dismiss, namely, whether this Court has *in personam* jurisdiction over the Defendants, whether venue is proper in this District, and whether Counts V and VII of the Complaint state a claim upon which relief can be granted. Additional legal issues may be presented by Defendants should it be necessary to file an Answer to the Complaint and should Counterclaims be pled at that time.

6. The principal factual issues at this time:

The principal factual issues presented by plaintiff are whether Defendants created, purchased, distributed and/or sold a patterned design identical to Plaintiff's copyrighted design known as Sateen in violation of the applicable statutes cited in the Complaint. Furthermore, it must be determined whether such actions on the part of the Defendants resulted in Defendants engaging in unfair competition.

Additional factual issues may be presented by Defendants should it be necessary to file an Answer to the Complaint and should Counterclaims be pled at that time.

7. Is a jury trial expected by either party:

Plaintiff has requested a trial by jury.

8. Discovery undertaken to date and anticipated in the future:

It is anticipated that formal requests for documents, interrogatories, requests to admit and depositions will be made in accordance with Rule 26(d)(1), F.R.Civ.P.

9. The earliest date the parties will be ready for trial and the anticipated length of the trial:

It is anticipated that this matter will be ready for trial by May 2009, and will require 2-3 trial days to complete.

10. Whether the parties unanimously consent to proceed before the Magistrate:

The Plaintiff consents to proceed before the magistrate judge, but Plaintiff does not waive his right to a jury trial. Defendants do not, at this time, consent to proceed before the magistrate judge.

11. The status of any settlement discussions and whether the parties request a settlement conference:

The parties have undertaken preliminary settlement discussions. The parties will likely request a settlement conference with the Court prior to any trial on this matter.

Dated: May 16, 2008

SKYLINE DESIGN, INC., Plaintiff

**CARVART GLASS, INC. &
RG GLASS CREATIONS, INC., Defendants**

By: /s/ Richard C. Perna
One of its Attorneys

By: /s/ Wendy E. Miller
One of their Attorneys

Richard C. Perna
Tejal S. Desai
Fuchs & Roselli, Ltd.
440 W. Randolph Street, Suite 500
Chicago, Illinois 60606
Tel: (312) 651-2400
Fax: (312) 651-2499

Wendy E. Miller (Of Counsel)
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, New York 10036
Tel: (212) 278-0400
Fax: (212) 391-0525

Michael R. Turoff (Local Counsel)
Arnstein & Lehr LLP
120 S. Riverside Plaza, Suite 1200
Chicago, Illinois 60606
Tel: (312) 876-7138
Fax: (312) 876-0288

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SKYLINE DESIGN, INC. an
Illinois Corporation,

Plaintiff,

v.

CARVART GLASS, INC., a New York
corporation, and **RG GLASS CREATIONS, INC.**
a New York corporation.

Defendants.

CASE NO. 08 CV 1656

Judge Guzman

Magistrate Judge Cox

NOTICE OF FILING

TO: Wendy E. Miller
Cooper & Dunham LLP
1185 Avenue of the Americas
New York, New York 10036

Michael R. Turoff
Raechelle Delarmenti
Arnstein & Lehr LLP
120 S. Riverside Plaza, Suite 1200
Chicago, Illinois 60606

PLEASE TAKE NOTICE that on the 16th day of May, 2008 we caused to be filed with the Clerk of the Northern District of Illinois, *Initial Status Report*, a copy of which is attached hereto and served upon you.

SKYLINE DESIGN, INC. *Plaintiff*

By: \s\ Richard C. Perna
One of its Attorneys

CERTIFICATE OF SERVICE

The undersigned attorney on oath states that he caused a copy of the foregoing Notice of Filing and *Initial Status Report* to whom it is directed by electronic service and by depositing same in the U.S. Mail at 440 West Randolph Street, Chicago, Illinois, on the 16th day of May, 2008.

\s\ Richard C. Perna

Richard C. Perna - ARDC# 06193236
Tejal S. Desai
FUCHS & ROSELLI, LTD.
440 West Randolph Street, Suite 500
Chicago, Illinois 60606
Tel: (312) 651-2400